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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,965	09/08/2003	John McKay	FM11.PAU.02	3132
7590 10/04/2005				
Richard L. Myers Myers Dawes Andras & Sherman LLP Suite 1150 19900 MacArthur Blvd. Irvine, CA 92612		EXAMINER SAETHER, FLEMMING		
		ART UNIT PAPER NUMBER		
		3677		

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/658,965

Applicant(s)

MCKAY, JOHN

Examiner

Flemming Saether

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-22 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 19-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Election/Restrictions

Applicant's election without traverse of species A, claims 1-13, in the reply filed on 1/11/04 is acknowledged. Accordingly, claims 14-18 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b), their currently being no allowable generic or linking claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, 9-13 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohlson (US 3,425,314). Ohlson discloses a locknut comprising a first member (5) having a non-continuous deflection wall (13) and a coaxial second member (3) having internal threads and including a deflecting element (11) with an engaged relationship with the deflection wall until a predetermined torque. The engaged relationship is characterized by a friction force or interference fit between deflecting element and the wall wherein, due to the ramped surface of deflecting element, the friction force increases until the predetermined torque as the deflecting element slides along the wall. Inherently, the walls resistance to deflection is dependent upon the size and shape of the wall. The deflection wall and deflecting element has in increasing thickness in opposite directions. The deflecting element has and inclined leading end

Art Unit: 3677

and an abrupt trailing end with a portion of uniform thickness at the peak where the leading and trailing ends meet. Also, the deflection wall has first and second portion of uniform thickness which are read as any two location on the inclined wall of the deflection member and since the wall is inclined it forms a ramp between the portions.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ohlson as applied to claim 1 above, and further in view of Rak (US 6,070,774). Ohlson does not disclose the first and second members retained together by a snap-fit. Rak discloses a snap-fit (at 107) between coaxial members. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the device of Ohlson with a snap-fit as disclosed in Rak in order to provide for an easy and secure assembly of the two members so that they would not become separated.

Response to Remarks

Applicant's remarks in support of the amendment have been considered but, the examiner has maintained the rejection because the claims, even as amendment, are broad enough so as to still be readable on the prior art.

Applicant argues that the Ohlson does not disclose the deflecting element having a portion with a uniform thickness between the leading and trailing ends. In response, the examiner agrees that Ohlson does not disclose the shape of the deflecting element as disclosed but, the examiner is of the opinion that the deflecting element as *claimed* is broad enough to read on the saw tooth shaped deflecting elements shown in Ohlson. In particular, the claims only require "a portion with uniform thickness between the inclined and the trailing end" which does not require the uniform thickness to extend a circumferential distance, i.e. between spaced apart inclined and trailing ends. Therefore, the limitation can read on the portion where the peak of each of the saw tooth formation as disclosed in Ohlson.

Applicant should be aware of the reference to Davidson where Figs. 1A, 1B and 1D show the same shape of the deflecting element as disclosed in the instant invention.

In regards to new claims 19-22 the claims are again broad enough to where the shape of the deflection wall disclosed in Ohlson meets the limitations of the claims.


Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Flemming Saether
Primary Examiner
Art Unit 3677